Workplace Bullying
- Know Your Rights and Remedies
LawWorks is a partnership between the National Trades Union Congress and The Law Society of Singapore that aims to educate employees on their legal rights, and to promote the interests of employees generally. This booklet is part of a LawWorks Pocket Series intended to provide a guide to particular areas of employment law, provide a checklist of key considerations, and point the way to avenues for further advice and assistance.

Regular legal clinics and periodic legal primers will be conducted under LawWorks. For more information on legal awareness and assistance for employees, please contact the National Trades Union Congress at: LawWorks@ntuc.org.sg or The Law Society of Singapore at: LawWorks@lawsoc.org.sg.

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1. Introduction to Workplace Bullying

1.1 What is Workplace Bullying?

In any work environment, there can be tensions when there are clashes due to the differences of opinions and working styles. In exceptional cases, such friction can lead to workplace bullying and it is important to note that you should not suffer in silence if you are confronted with such a situation.

Generally, “workplace bullying” is defined as the “intentional infliction of a hostile work environment upon an employee by a co-worker or co-workers, typically through a combination of verbal and non-verbal behaviours.”

It can be blatant or subtle, active or passive and is a repeated pattern of negative behaviour that takes place over a long duration. Workplace bullying can come from a co-worker with more power (for example, a superior or direct manager)
or one with the convincing appearance of more power (for example, an influential or more senior peer).

The most obvious and easiest to detect bullying behaviour involves swearing, taunting, put-downs and even physical abuse but more common is an insidious form of subtle intimidation, such as silences when the target of the bully walks into the room, the spreading of malicious gossip to co-workers, not being invited to crucial meetings and being stripped of critical duties and constantly set up to fail. Workplace bullying has also been known to arise from discriminatory attitudes held by the bully over race, gender or sexual orientation.

Further, workplace bullying is not limited to office premises; given the prevalent use of modern telecommunications, the Internet and social media, bullies may target their victims on these digital platforms as well. This damage from such cyberbullying may, in fact, be greater because the bullying behaviour would be visible to not just the victim and his/her immediate co-worker but also to Internet users at large (including the victim’s friends and family).

Bullying is not the same thing as a manager getting angry at any one time or calling out poor performance on the part of the employee. It is distinguished from harassment, with the latter being of a more offensive nature (both in terms
of the extent and/or the impact upon the victim). However, bullying, if serious enough, may amount to harassment. The nature of harassment and remedies available to a victim of harassment will be explained in the sections below.

Many victims of workplace bullying suffer in silence or alone, afraid that if they speak up, they may lose their much needed jobs. However, being bullied can take a toll on one’s physical and mental health. Needless to say, it can also affect work performance which may in turn intensify the bullying.

If you feel that you are a victim of workplace bullying, it is imperative that you voice your concerns and inform your supervisor(s) of your predicament.

### 1.2

**Why should employers care about Workplace Bullying?**

Bullying not only affects the victim; it affects the people around who are observing the bullying as well as the functioning of the organisation as a whole. The impacts of bullying include low morale, negative work climate, repercussions to public image and decreased productivity. Specifically, productivity is affected by greater absenteeism and turnover, more accidents, lower quality customer service, higher costs for employee-assistance programmes, decreased motivation and morale.
1.3

What can employers do?

To combat instances of workplace bullying, the organisation will need to have an escalation or feedback process available to employees who feel that they have been bullied. To do so, the organisation should adopt a positive corporate culture to show, with no uncertainty, that workplace bullying will not be tolerated for the sake of its employees’ well-being. Measures that can be taken include:

- establishing HR policies and procedures to address workplace bullying and ensuring that these are well communicated and understood;
- communicating these policies and procedures to employees, which includes identifying the relevant personnel/department to which complaints should be lodged, as well as outlining the procedure that needs to be undertaken;
- providing timely response to complaints lodged, including giving regular updates to the complainant during the course of investigation;
- ensuring that all complaints are treated with the strictest confidence and assuring employees of the same;
- training managers/leaders on the right way to communicate constructive feedback and handle issues in ways that create accountability and support productivity goals;
- educating leaders on the best practices and skills to engage employees and establishing a culture that is encouraging and enriching; and
- developing a sense of transparency under which the organisation will cooperate with external authorities (for investigation purposes) if need be.

Upon being informed by the affected employee or through its reporting channels, the organisation should thoroughly investigate the incidents complained of and conduct a fair and impartial hearing to allow the perpetrator and the victim the opportunity to present their version of the incident. These hearings should be recorded in writing and the perpetrator and victim should sign these records to verify the accuracy of what was documented. It might also be helpful for the victim and the perpetrator to each be accompanied, during the hearing, by a confidante of their choice from within the organisation and including the Union representative (for unionised companies).
2. **Harassment at the Workplace**

Under the Protection from Harassment Act 2014 (Chapter 256A) (“POHA”), harassment refers to conduct, behaviour or words (written or verbal) by a person that is abusive, threatening or insulting and when directed at another person, would likely cause this other person distress, alarm or annoyance. Harassment can be of a sexual or non-sexual nature. Harassment can take place physically or through modes of communication such as email, telephone, or on the Internet.

- Sexual harassment would usually involve unwelcome physical contact and advances, sexually coloured remarks, showing of obscene or lewd images and requests for physical contact or sexual favours.

- Non-sexual harassment are actions such as persistent phone calls to another person and the sending of recurring text messages, emails or social media messages to another person. It might also entail the circulation of gossip, untruths or private content (photos, videos, etc) relating to a person over telecommunication or the Internet.
2.1

Protection from Harassment Act 2014 ("POHA")

With the enactment of the POHA, Singapore now has a consolidated piece of legislation designed to provide redress to victims of all forms of harassment. Harassment, as defined under the POHA, may include certain instances of workplace bullying. Under the POHA, harassment constitutes both a criminal offence and a civil wrong.

With the POHA now in force, a victim of workplace harassment can do more than make an internal complaint within the organisation. He or she may choose to file a police report, take out civil proceedings against the perpetrator or do both.

*What amounts to harassment?*

The definition of harassment under the POHA is broad. The following few instances and examples amount to harassment.
Intentionally causing harassment, alarm or distress (section 3 POHA)

This can happen when A intentionally causes harassment, alarm or distress to B by communicating or doing something threatening, abusive or insulting to B. Communication need not be verbal and includes the use of any words, images, message, symbol, etc.

The focus is on the intention of the perpetrator. For example, Alex and Betty are co-workers.

- At the workplace, Alex loudly and graphically describes to the other co-workers his desire for a sexual relationship with Betty in an insulting manner. Alex knows that Betty is within earshot and intends to cause Betty distress. Betty is distressed. Alex has committed harassment under this section.

- Alex writes a letter containing threatening words towards Betty, intending to send the letter to Betty to cause her alarm. However, Alex decides not to send the letter and throws it away. Betty finds the letter and is alarmed. In this case, unlike the above example, Alex has not committed harassment as he had no reason to believe the letter would be seen by Betty.
Alex gets into a disagreement at work with Betty over the way a project is run. Alex is unhappy with Betty. He writes demeaning and untrue things about Betty on his Facebook page, accusing Betty of being incompetent, stupid and lazy. The post is seen by all of Alex’s Facebook friends, including his co-workers. Alex knew that Betty herself would see the post because she is his friend on Facebook. Alex had intended to cause Betty distress and Betty did feel distressed. Alex has committed harassment under this section.

- Harassment, alarm or distress (section 4 POHA)
- Similar to section 3 described earlier, this can happen when A causes harassment, alarm or distress to B by communicating or doing something threatening, abusive or insulting to B.
- However, intention of the perpetrator to cause harassment is not required. As long as the victim hears, sees or otherwise perceives the act of harassment and is likely (from a reasonable person’s point of view) to be caused harassment, alarm or distress, harassment would have been deemed to occur.
For example, Calvin and Delwin are co-workers.
- Calvin posts a vulgar rant against Delwin on Calvin’s Facebook page. Calvin did not mean for the post to annoy or cause distress to Delwin. He merely wanted to vent his frustrations. Calvin also did not intend for Delwin to see the post because Delwin was not Calvin’s Facebook’s friend. But as things turned out, one of Delwin’s co-workers (who is Calvin’s Facebook’s friend) shows the post to Delwin and Delwin is distressed. Calvin has committed harassment under this section.

Fear or provocation of violence (section 5 POHA)
- This can happen when a person, through words or actions, intentionally causes a victim to believe that unlawful violence will be used against the victim or any other person (usually someone close to the victim).
- For example, Edwin and Francis are co-workers.
  - Edwin verbally threatens to beat up Francis in a manner which Francis is likely to take his words seriously. Edwin has committed harassment under this section.
If, however, it was clear that Edwin meant it as a joke and there was no reason for Francis to take it seriously, Edwin would not have committed harassment.

Edwin sends a series of SMSes to Francis, threatening to set Francis’ house on fire and to cause harm to Francis’ family. Edwin has committed harassment under this section.

Edwin goes to Francis’ house one evening, confronts Francis, picks up a flower pot outside the house and smashes it on the ground. Francis’ wife and children witness this. They are afraid for their own safety. Edwin has committed harassment under this section.

Unlawful Stalking (section 7 POHA)

A severe form of harassment can take place through stalking.

Examples of unlawful stalking may include:

- Following a co-worker home and loitering outside the co-worker’s house;
- Repeatedly sending a co-worker emails, text messages or other forms of communication despite being told to stop; and
- Keeping a co-worker under surveillance.
For example, Harris and Neesha are co-workers.

- Harris is fond of Neesha. At least thrice a week, he waits for her at the lobby of their office building, follows her home on public transport (while watching her from a distance), then stares at Neesha’s flat on the third floor long after Neesha returns home. Neesha has told Harris numerous times not to do this and that she feels freaked out by his actions. Harris continues with such conduct and Neesha feels distressed by it. Harris has committed harassment through stalking.
2.2 Cyber Bullying

Cyber bullying is defined as the use of information technology through electronic devices or electronic media to cause harm, fear or anxiety to other people in a deliberate, repeated and hostile manner. Acts of harassment that take place in cyberspace may also be caught by the POHA.

Due to the nature of the platform of transmission, cyber bullying differs from conventional bullying. Since cyber bullying usually takes place over the Internet, perpetrators may believe they have the added cloak of anonymity. The POHA recognises this and therefore, allows for remedies to be sought even against anonymous entities that are causing harassment. This will be discussed further below.

Cyber bullying can also take place anytime and anywhere, even when the victim is not physically in the same vicinity. Perhaps the most damaging aspect of cyberbullying is that it sees no end, as the offending material once posted onto an online platform is exceedingly difficult, if not impossible, to be completely removed from the Internet. Furthermore, in this connected environment, information can spread very quickly and to a vast number of people.
There are various ways in which cyber bullying in the workplace may arise. For example, some forms of cyber bullying at the workplace include online harassment, cyber stalking, denigration, flaming, impersonation and trickery.

- Online harassment, denigration and flaming refer to the use of abusive, threatening and insulting words targeted at an individual, which are spread online.
- Trickery cases refer to the tricking of the victim into revealing embarrassing or private information and forwarding such information to others.

Cyber bullying causes obvious emotional and psychological trauma to the victims. Cyber bullying in the workplace has the added harm of disrupting the efficiency of work as the workplace becomes viewed as unsafe and less cohesive especially when employers make light of the situation. In some cases, what started out as perceived jokes made online at the expense of an individual employee may escalate in time to overtly hostile behaviour both online and in the reality at the workplace.

Cyber bullying in the workplace brings visible and lasting damage to most parties involved. The victim may be traumatised and upset by the cyber bullying behaviour. The perpetrator may face criminal charges. The organisation may acquire a reputation
of operating an unsafe and non-conducive environment for work. Hence, it is important for all parties to be aware of the negative effects of cyber bullying and strive towards eliminating such destructive behaviour, if they arise, at the workplace.

If you are a victim of cyber bullying and feel that it amounts to harassment under the POHA, you may wish to take action against the perpetrator through the options discussed in the next section.
What can you do if you are harassed at work?

Harassment as a criminal offence
The acts of harassment outlined above (under sections 3, 4, 5 and 7 POHA) are criminal offences. This means that a perpetrator who commits the above acts may be subject to police investigation and may be charged in a criminal court. The penalties for committing the various offences are as follows:

Summary of punishments for first offences under the POHA

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Punishment for first offence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 3 POHA</td>
<td>intentionally causing harassment, alarm or distress</td>
<td>Fine not exceeding $5,000 or imprisonment not exceeding 6 months or both</td>
</tr>
<tr>
<td>Section 4 POHA</td>
<td>harassment, alarm or distress</td>
<td>Fine not exceeding $5,000</td>
</tr>
<tr>
<td>Section 5 POHA</td>
<td>(fear or provocation of violence)</td>
<td>Fine not exceeding $5,000 or imprisonment not exceeding 12 months or both</td>
</tr>
<tr>
<td>Section 7 POHA</td>
<td>(unlawful stalking)</td>
<td>Fine not exceeding $5,000 or imprisonment not exceeding 12 months or both</td>
</tr>
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</table>
Harassment as a civil wrong

With the enactment of the POHA, victims of harassment may now sue for damages for the loss suffered as a result of the harassment. To pursue a civil claim for harassment, the claimant must sue a perpetrator in court. This is provided for under section 11 of the POHA, which creates a statutory tort (a civil wrong) of harassment.

To succeed in a lawsuit for harassment, a claimant must show that the perpetrator has committed harassment under sections 3, 4, 5 or 7 of the POHA. The claimant must produce evidence to prove such harassment and the court must ultimately be satisfied that it was more likely than not that the perpetrator has breached the sections of the POHA.

If a claimant is successful, the court may order the perpetrator to pay the claimant monetary compensation for the loss and distress the claimant has suffered as a result of the harassment. The court may also make orders to prevent further harassment, for example, ordering the perpetrator to not make further contact with the claimant or to not intentionally appear within a certain distance of the claimant, etc.
**Remedies under the POHA**

If you believe that you are a victim of harassment at work, you may seek redress against your perpetrator through several options under the POHA:

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<thead>
<tr>
<th>Civil Remedies</th>
<th>Criminal Sanctions</th>
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<tr>
<td>Protection Order: an order from the court directing that a perpetrator stop his or her offending conduct. A breach of a protection order amounts to contempt of court, and is also an offence under the POHA.</td>
<td>Criminal charge: usually instituted by the victim making a police report. The police will then decide whether or not to investigate the matter. If it does, and finds that there are sufficient grounds for a charge against the perpetrator, the perpetrator will be prosecuted for a criminal offence in court and may be sentenced to a fine, a jail term or both, if found guilty.</td>
</tr>
<tr>
<td>Civil Remedies</td>
<td>Criminal Sanctions</td>
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<tr>
<td><strong>Non-Publication Order</strong>: an order from the court directing a perpetrator to stop publishing offending communication. This is usually sought in harassment cases that involve the circulation of untrue, insulting or private content about a victim.</td>
<td><strong>Magistrate’s Complaint</strong>: a victim may file this if, after making a police report, the police chooses not to investigate the matter. If a Magistrate’s complaint is valid, the Magistrate may direct the police to investigate the matter, which may in turn lead to a prosecution.</td>
</tr>
<tr>
<td><strong>Civil lawsuit</strong>: this was discussed above and involves the victim suing the perpetrator for compensation and/or a court order calling for the harassment to stop. A lawsuit is more extensive and usually costs more than an application for a protection order or a non-publication order.</td>
<td></td>
</tr>
</tbody>
</table>
You should decide on the remedy you wish to pursue because each remedy involves different proceedings, costs and outcomes. The remedies are not mutually exclusive, for example, a victim of harassment may take steps to pursue criminal sanctions and apply for a protection order simultaneously. He or she may then follow up with a lawsuit to obtain compensation from the perpetrator if need be.

Whichever remedy you choose to pursue, it is important that you retain as much evidence as possible to support your allegations. These can include photographs and videos of harassing conduct, records of offending communication that was transmitted to you, to third parties, circulated on the Internet or other platforms. Evidence may also include SMS or instant-messaging chat logs. If you have sought medical treatment as a result of injuries or psychological harm arising from the harassment, retain the medical report/diagnosis from your medical visit together with receipts/invoices for the medical fees incurred.

The nature of and proceedings for the various remedies are discussed in the next section.
(A) Applying for a Protection Order ("PO")/Non-Publication Order ("NPO")

The application for a "PO"/NPO consists of the following phases:

- Pre-Filing Assessment
- Application
  1. Preparation of documents
  2. Affirming/Swearing your Affidavit
  3. Filing of documents
  4. See Duty Judge
  5. Service of documents
  6. Respondent's (Perpetrator's) Reply
- Pre-Trial Conference
- Hearing

For detailed information on each of the above phases, please visit the State Courts website https://www.statecourts.gov.sg/FillingForHarassment/Pages/CIVIL-REMEDIES.aspx.

(B) Applying for an Expedited Protection Order ("EPO")

In urgent cases, you may apply for an Expedited Protection Order, in addition to a Protection Order, to cover you temporarily for the period before your application for a Protection Order is heard.

The application process for an EPO is similar to that for a PO/NPO, save for the following differences:
1. Your case will be fixed for a Pre-Trial Conference before a Judge within the next three working days. This is much faster than the process for a PO/NPO, where the Pre-Trial Conference would be fixed at least three weeks from the date the documents to commence proceedings are filed.

2. If you are represented by a lawyer, you will still need to appear in person in Court on the Pre-Trial Conference date; and

3. You do not need to serve a copy of the documents to commence proceedings on the Respondent (Perpetrator) immediately. During the Pre-Trial Conference, the Judge will give you specific directions for service of the documents, including directions for service of the EPO should your application be successful.

NOTE: The Expedited Protection Order takes effect only after it has been served on the Respondent (Perpetrator).

(C) Suing a perpetrator or stalker for monetary compensation

If you intend to sue a perpetrator or stalker for monetary compensation, you will have to commence a civil action by issuing a Writ of Summons. As the litigation process is tedious and complex, you may wish to seek legal advice.
Information on commencing a civil action and filing a Magistrate’s Complaint can be found at the State Court’s website:
https://www.statecourts.gov.sg
3. Physical Abuse at the Workplace

This section considers the effect of physically abusive behaviour at the workplace. Such conduct could take the form of a slap, punches, pushing and shoving or other forms of unwanted physical contact which may or may not result in physical injuries.

The victim of physically abusive behaviour has the option of pursuing a criminal or civil case or both. The type of criminal offence which may have been committed would depend on the amount of force that was used by the wrongdoer and whether the victim sustained any injuries. In general, the police are unlikely to investigate isolated incidents of minor physical abuse and where no injuries are sustained by the victim. For a civil case, the amount of damages that is recoverable by the victim would depend on the amount of financial loss suffered by the victim as a result of the unwanted physical contact.
3.1 Physical abuse as a criminal offence

The Penal Code (Cap 224) contains a variety of offences relating to physical abuse or violence inflicted by a person on another, with varying maximum penalties. The more aggravating factors there are in the conduct, the more severe the maximum sentence.

You may wish to make a police report if you are a victim of physical abuse or violence at your workplace.

3.2 Physical abuse as a civil wrong

A victim of physical abuse may also pursue a civil cause of action against the perpetrator under the tort of battery or the tort of assault. In order to recover damages or compensation, the victim must prove that he or she had suffered a loss as a result of the wrong doing of the other party. Typically, such loss would come in the form of medical expenses that were incurred by the victim.
**Battery**

To succeed in a claim for battery, the victim must establish the following:

- There was direct physical contact between the perpetrator and the victim;
- The physical contact with the victim was an intentional act of the perpetrator; and
- The physical contact was unjustified (justified physical contact refers to generally acceptable in the ordinary conduct of daily life, for example, when people bump into each other in a packed train).

The tort of battery is actionable even if the victim does not suffer any actual physical harm. Usually, only nominal damages would be recoverable in such a situation.

**Assault**

The tort of assault refers to an act of the perpetrator which directly and intentionally causes the victim to reasonably apprehend imminent bodily harm or offensive contact. Unlike battery, assault is focused on the threat of imminent force on the victim, thus actual physical contact is not required.

To succeed in a claim for assault, the victim must establish the following:

- The act was intended by the perpetrator to cause apprehension of harmful or offensive contact; and
- The act indeed caused apprehension of harm in the victim.
4. **Seeking Help**

In the event that you (or someone you know) suffer from workplace bullying or harassment, you may seek help from the following parties:

**Human Resource Department**
The company’s human resource department may be the first stop to lodge a complaint of such nature. In most of the MNCs and larger SMEs, they may have established policies to deal with such complaints and their resolution.

**Trade Unions**
If you are a Union member, you may contact your Union representative for assistance.

**Ministry of Manpower (MOM)**
The MOM formulates and implements manpower policies in Singapore. The MOM website provides various resources relating to our workforce and workplace, including resources to foster inclusive and harmonious workplaces. For more details, you may wish to refer to their website at www.mom.gov.sg.
Police
For more serious cases of workplace bullying which is causing you alarm or making you fear for your life or actual physical violence was used against you, you should lodge a police report. The police will investigate the incident complained of and may charge the perpetrator under the POHA and/or Penal Code for those offences.

For More Assistance/Information
- If you are a union member, you may:
  - approach U PME Centre at NTUC Centre, 1 Marina Boulevard #B1-01 NTUC Members’ Hub One Marina Boulevard Singapore 018989
  - Visit PME Portal at www.ntuc.org.sg/pme
  - Email: pme@ntuc.org.sg
- You may also:
  - approach the Pro Bono Services Office of The Law Society of Singapore at 50 Market Street #10-04 Golden Shoe Car Park Singapore 048940
  - General line: 6536 0650
  - Email: probonoservices@lawsoc.org.sg
For more assistance and information on the Law Society’s Community Legal Clinics, please visit: http://probono.lawsociety.org.sg/Pages/Community-Legal-Clinic.aspx

Do note, however, that the lawyers at these clinics cannot subsequently act on your behalf in court proceedings.
5. Checklist

1. Does someone in your workplace regularly use these behaviours against you (or your co-workers)?
   - Exploits and humiliates employee publicly or privately
   - Sabotages or prevents employees from fulfilling their work requirements
   - Attacks or excludes successful achievers
   - Spreads malicious rumours about you or your co-workers around the workplace

2. Did your co-workers witness the bullying/harassment?
   - Yes
   - No

3. Do you have documentary proof of the bullying/harassment?
   - Yes
   - No

4. Are there an established HR policies and procedures to address workplace bullying/harassment?
   - Yes
   - No
5. Have you reported the bullying/harassment incident to your line manager or human resource officer and have they taken any action against the bully perpetrator?
   - Yes
   - No

6. Are you getting external help from your doctor, psychologist or psychiatrist to deal with the effects of being bullied?
   - Yes
   - No

If you have ticked “yes” to the above, you will probably have a stronger case.

The following are possible actions that you may wish to take:
✓ Check if there are established HR policies and procedures to address workplace bullying/harassment.

✓ Report the bullying/harassment incident to your line manager or human resource officer and the action taken by you against the bully/perpetrator.

✓ If you are a union member, report the bullying/harassment incident to your Union representative.

✓ Get external help from your doctor, psychologist or psychiatrist to deal with the effects, if any, after having been bullied.
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